

REMARKS

This is in response to the Final Office Action of July 15, 2004, the shortened period for response there to expiring October 15, 2004. Claims 1 and 7 and 8 have been amended and claims 2 and 9 have been cancelled placing the application in form for allowance.

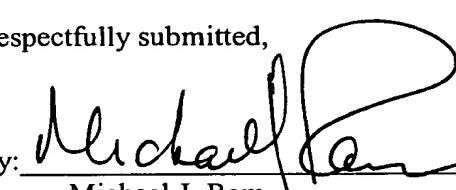
Claim 2 was objected to because reference character 40 was used in the specification and drawings to designate both a pressure regulator means and a valve means and reference character 23 was used to designate both a pressurizing means and a force applying means. Claim 1 has been amended by replacing "pressure regulator means" with -- pressure responsive valve means--. It is respectfully submitted that this designation is fully supported by the specification at page 5, lines 2-16 and the use of "pressure responsive valve means" is appropriate. In the portion of claim 2 added to claim 1, "valve means" has been replaced by -- valve--. In the specification, 40 designates a valve arrangement which opens and closes at predetermined pressures (i.e. pressure responsive valve means).

In regard to the objection to the use of reference numeral 23, as set forth in the specification at page 4, line 26- page 5, line2, 23 designates a spring arrangement which functions as a force producing device (i.e. a force applying means) causing the movement of diaphragm 22. However, neither the disclosure nor the claims are limited to a spring arrangement. The application specifically states that other force producing devices such as gas filled cylinders, spring driven pistons or elastomeric chambers can be used to exert a force on the drug solution. Claim 2, and now claim 1, references a "force applying means". Figure 1 shows a spring 23 which applies a force on the storage container 20. In Figure 2 the force applying means is a surrounding elastomeric bladder 123 which applies pressure on its fluid contents. One skilled in the art will fully recognize that pressure is defined as force per unit area. Accordingly, under any scientific standard, a pressure means is a force applying means. Claim 2 as previously constituted, and now claim 1, are not and were never limited to the embodiment of Fig. 1 but also encompasses the embodiment of Fig. 2 and any other equivalent structures within the scope of the claims. While the Office Action specifies that the objection to the drawing will not be held in abeyance, no objection to the drawing appears to have been raised and therefore no correction to the drawing is being submitted. It is submitted that the claims are supported by the drawings and all limitations in the claims are set forth in the drawings.

Claims 1, 6 and 8 were rejected under 35 USC 102(b) as shown by DiDomenico, US Patent 4,714,462 and claims 4 and 5 were rejected under 35 USC 103(a) as obvious based on DiDomenico. However, claims 2, 3, 7 and 9 were allowable if rewritten in independent form. Accordingly, claim 1 has been amended to include the limitation of claim 2, claim 2 has been canceled, claim 3 has been amended to be dependent on now-allowable amended claim 1, claim 7 has been made independent by adding the language of claim 1, claim 8 has been amended to include the limitation of claim 9 and claim 9 has been cancelled. Original claims 4-6 are now dependent on allowable claim 1 and are therefore allowable.

Claims 1 and 3-8 remain in the application. It is respectfully submitted that these claims are patentable, fully supported by the Specification and not shown nor suggested by the cited reference. It is requested that this amendment be entered and the final rejection be withdrawn as all remaining the claims are allowable found and a Notice of Allowance be issued.

Respectfully submitted,

By: 
Michael J. Ram
Registration No. 26,379
Attorney for Applicant(s)

August 10, 2004

KOPPEL, JACOBS, PATRICK & HEYBL
555 St Charles Drive, Suite 107
Thousand Oaks, CA 91360
Phone (805) 373-0060
Fax (805) 373-0051
CN/PATENT/AMEND00926004.12-23-03

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail Mailing Label EV 380181801US in an envelope addressed to : Mail Stop Non Fee (Amendment), Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on the date shown below on

August 10, 2004
Date Christina Nicoll